

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of Kurt Hagemann	<b>FINDINGS OF FACT, CONCLUSIONS AND ORDER</b>
--------------------------------	--

This matter came before Administrative Law Judge Manuel J. Cervantes on March 26, 2009, for a contested case hearing.

Krista Guinn Fink, Associate Legal Counsel, appeared telephonically on behalf of the Department of Corrections ("Department").

Respondent Kurt Hagemann, appeared telephonically for himself without counsel.

**STATEMENT OF ISSUE**

May the Department collect a supervision fee of \$120.00 from Mr. Hagemann for correctional fees pursuant to Minn. Stat. § 241.272 through the Minnesota Revenue Recapture System?

Based on the evidence in the record, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. Respondent Kurt Hagemann began serving a term of probation on a stayed sentence for Fifth Degree Controlled Substance Crime on March 28, 2008. At that time, a correctional fee in the amount of \$120.00 was imposed pursuant to Minn. Stat. § 241.272 and Department of Corrections Policy 201.013 (Supervision Fees – Field Services).

2. On October 14, 2008, his probation was revoked and he was committed to the custody of the Commissioner of Corrections for one year and one day, to be served at the Pipestone County Jail. The fee was not waived, and Mr. Hagemann did not pay the fee.

3. The Department subsequently notified Mr. Hagemann of its intent to collect the supervision fee through the Minnesota Revenue Recapture Program and of

his right to request a hearing. By letter received November 19, 2008, Mr. Hagemann requested a contested case hearing.

4. On December 18, 2008, the Commissioner of Corrections issued a Notice of and Order for Hearing.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. §§ 241.272, 270A.08 and 270A.09. Pursuant to Minn. Stat. § 270A.09, subd. 3, the decision in the hearing is the final decision in this administratively contested case. The provisions for judicial review of that decision under Minn. Stat. §§ 14.63 to 14.68 apply to this decision.

2. Notice of this hearing was proper and the Department has fulfilled all procedural requirements.

3. Kurt Hagemann owes to the Department of Corrections \$120.00 for a correctional fee.

4. The \$120.00 fee is a “correctional fee” within the meaning of Minn. Stat. § 241.272. Under Minn. Stat. § 241.272, subd. 3(a), the Commissioner of Corrections may impose and collect fees from individuals on supervised release at any time while the offender is under sentence or after the sentence has been discharged. Under subdivision 3(b) of that statute, the Commissioner may use any available civil means of debt collection to collect a correctional fee.

5. The Minnesota Revenue Recapture Act authorizes State agencies such as the Department of Corrections to collect debts owed to it by filing a claim with the Minnesota Department of Revenue. The Department of Revenue may collect amounts due to the Department of Corrections by setting off the amount of such debt from refunds due to debtors. Refunds include individual income tax refunds, political contribution refunds, property tax credits or refunds, and lottery prizes of \$600 or more.

6. The fee is authorized by statute and Department of Corrections policy, and failure to notify Mr. Hagemann of the fee during his criminal proceedings does not invalidate collection of the fee. Furthermore, as established by the collection procedures set forth in department policy, Mr. Hagemann’s subsequent incarceration did not result in waiver of the fee. Finally, the department policy in effect at the time did not permit a fee reduction because he was under supervision less than one year.

7. It is appropriate for the Department of Revenue to collect the correctional fee of \$120.00 from Kurt Hagemann through the revenue recapture provisions of Minn. Stat. Chapter 270A.

Based on the Conclusions, the Administrative Law Judge makes the following:

**ORDER**

**IT IS ORDERED** that the Department of Corrections may proceed with its request to collect the \$120.00 due from Mr. Hagemann for a correctional fee through the Minnesota Revenue Recapture Program.

Dated: April 16, 2009

s/Manuel J. Cervantes  
MANUEL J. CERVANTES  
Administrative Law Judge